

Remarks

Reconsideration of this Application is respectfully requested. Claims 1-45 are pending, with claims 1, 10, 24, 34 and 35 being the independent claims. Applicant respectfully requests that the Examiner reconsider and withdraw all outstanding rejections.

Claim Rejections Under 35 U.S.C. § 103(a)

Claim 1 was rejected under 35 U.S.C. § 103(a) as being unpatentable over certain prior art cited in Information Disclosure Statements filed by Applicant (i.e., Applicant's Admitted Prior Art) ("AAPA") in view of U.S. Patent No. 5,899,846 to Sternberg et al. ("Sternberg"). **The Applicant notes that the rejection listed on page 2, paragraph 3 of the Office Action, indicates that claims 23-39 are also included. The Examiner confirmed during a telephone call with the Applicant's representative on March 22, 2011, that claims 23-39 are not included with this rejection, and are covered by other rejections as indicated below.**

Claims 6-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over AAPA in view of Sternberg and further in view of U.S. Patent Publication No. 2004/0261796 to Butler ("Butler").

Claims 10 and 15-39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over AAPA in view of Sternberg and further in view of Butler and U.S. Patent No. 5,727,950 to Cook et al. ("Cook").

Claims 2-5 and 11-14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over AAPA in view of Sternberg in view of Butler and Cook and further in view of U.S. Patent No. 4,227,524 to Galerne ("Galerne")

Each of these rejections is addressed below.

Claim 1 and its Dependent Claims are Allowable

Without acquiescing to the rejection of claim 1, the Applicant has amended claim 1 to advance prosecution of this application. Specifically, claim 1 has been amended to recite, in part, “said user sensor being in electrical communication with said on-board interface” and “said on-board interface configured to execute a session of cyclic variations in altitude conditioning upon initiation by a user at a first time period, said session including a predetermined program configured to regulate cyclic variations of altitude within said pressure vessel, said on-board interface configured to cause a change to said predetermined program at a second time period based on a signal received from said user sensor.” Neither AAPA nor Sternberg, alone or combined, disclose or suggest such an apparatus.

Specifically, as conceded by the Examiner, AAPA does not disclose or suggest a user sensor (see Office Action page 3) or an on-board interface in electrical communication with a user sensor and configured to execute a session of cyclic variations in altitude conditioning (see Office Action, page 10), as recited in claim 1, as amended.

Sternberg discloses a chamber 10 used to place a subject under a pressure greater than atmospheric. A closure 14 is used to close off the chamber 10 and includes feed-throughs 34. The feed-throughs 34 can be used to pass wires connected to electrical devices into the chamber 10. Although Sternberg discloses that the electrical devices can include physiological monitoring devices that can be coupled to the subject within the chamber 10, Sternberg does not disclose or suggest using information from the monitoring devices to alter the pressure within the chamber 10. Sternberg also does not disclose or suggest an “on-board interface configured to initiate a session of cyclic variations in altitude conditioning upon initiation by a user at a first time period, said session including a predetermined program configured to regulate cyclic variations of altitude within said pressure vessel, said on-board interface configured to cause a change to said predetermined program at a second time period based on a signal received from said user sensor” as recited in claim 1, as amended.

The Examiner asserts with respect to previous claims 7-9 that Sternberg discloses “the user sensor placed in electrical communication with the external controller for selection and

modification of programs based on measured parameters” (see Office Action, page 4). The Applicant respectfully disagrees with the Examiner’s assertion. Sternberg fails to disclose or suggest any “predetermined program configured to regulate cyclic variations of altitude within said pressure vessel” as recited in claim 1. In addition, as discussed above, Sternberg is entirely silent as to the monitoring devices being in electrical communication with a controller that can select and modify programs based on measured parameters, as asserted by the Examiner.

Further, the Examiner asserts with respect to previous claims 2-5 that Galerne discloses an on-board interface and further asserts that it would have been obvious to one of ordinary skill in the art “to have the on-board interface be capable of monitoring readings from the user sensor to determine whether a measured parameter of a user’s body condition is at a level sufficient enough to warrant modification of a predetermined program regulating cyclic variations in altitude conditioning.” (see Office Action, page 10). The Applicant respectfully disagrees with the Examiner’s assertion. The Examiner has not shown where in the prior art the specific recitations in previous claims 2-5 are disclosed, but rather, merely provides conclusory statements as to the obviousness of previous claims 2-5.

More specifically, the Examiner has failed to show that the prior art discloses the specific recitation that the “user sensor is placed in electrical communication with said on-board interface” or the “on-board interface being capable of monitoring readings from said user sensor to determine whether a measured parameter of a user’s body condition is at a level sufficient enough to warrant a modification of a predetermined program regulating cyclic variations in altitude conditioning” (as recited in previous claim 3, which subject matter is now in amended claim 1). In addition, claim 1 has been amended to recite “said on-board interface configured to cause a change to said predetermined program at a second time period based on a signal received from said user sensor.” Thus, the Applicant respectfully submits that the Examiner has not established a *prima facie* case of obviousness. None of AAPA, Sternberg or Galerne, alone or combined disclose or suggest an apparatus as recited in claim 1, as amended. Moreover, the Applicant respectfully asserts that the gap between AAPA in view of Sternberg or Galerne and

the currently pending claims is “so great as to render [the claims] nonobvious to one reasonably skilled in the art.”¹

Accordingly, for at least the above reasons, the Applicant respectfully submits that independent claim 1 is allowable over the cited references. Based at least upon their dependence on independent claim 1, claims 3-9 and new claims 40-42 are also allowable.

Claim 10 and its Dependent Claims are Allowable

Without acquiescing to the rejection of claim 10, the Applicant has amended claim 10 to advance prosecution of this application. Specifically, claim 10 has been amended to recite, in part, “said user sensor being in electrical communication with said on-board interface, said on-board interface configured to initiate a session of cyclic variations in altitude conditioning upon initiation by a user at a first time period, said session including a predetermined program configured to regulate cyclic variations of altitude within said pressure vessel unit, said on-board interface configured to cause a change to said predetermined program at a second time period based on a signal received from said user sensor.” None of AAPA, Sternberg, Butler or Cook, alone or combined, disclose or suggest such an apparatus. The Applicant respectfully asserts that the gap between AAPA in view of Sternberg, Butler or Cook and the currently pending claims is “so great as to render [the claims] nonobvious to one reasonably skilled in the art.”²

Specifically, for similar reasons as discussed above for claim 1, neither AAPA nor Sternberg disclose or suggest a user sensor in electrical communication with an on-board interface, as recited in claim 10, as amended. Neither Butler nor Cook remedy the deficiencies of AAPA and Sternberg. Cook merely discloses a computer system and fails to disclose or suggest a pressure vessel of any type. Butler also fails to disclose or suggest a user sensor or an on-board interface, as recited in claim 1, as amended.

¹ *Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 In View of the Supreme Court Decision in KSR International Co. v. Teleflex, Inc.*, 72 Fed. Reg. 195, pages 57528-529 (stating that the Examiner must provide an explicit analysis supporting a *prima facie* obviousness rejection under 35 U.S.C. § 103 and cautioning that the gap between the prior art and the claimed invention may not be so great “as to render the [claim] nonobvious to one reasonably skilled in the art.”).

² *Id.*

Accordingly, for at least the above reasons, the Applicant respectfully submits that independent claim 10 is allowable over the cited references. Based at least upon their dependence on independent claim 10, claims 11-23 and new claim 43 are also allowable.

Claim 24 and its Dependent Claims are Allowable

Without acquiescing to the rejection of claim 24, the Applicant has amended claim 24 to advance prosecution of this application. Specifically, claim 24 has been amended to recite, in part, “said user sensor being in electrical communication with said on-board interface, said on-board interface configured to initiate a session of cyclic variations in altitude conditioning upon initiation by a user at a first time period, said session including a predetermined program configured to regulate cyclic variations of altitude within said pressure vessel unit, said on-board interface configured to cause a change to said predetermined program at a second time period based on a signal received from said user sensor.” For similar reasons as discussed above for claims 1 and 10, none of AAPA, Sternberg, Butler or Cook, alone or combined, disclose or suggest such a method. Specifically, the cited references do not disclose or suggest a method of “making a system for cyclic variations in altitude conditioning available to a user” where the system includes a pressure vessel unit having a user sensor and on-board interface as recited in claim 24, as amended. The Applicant respectfully asserts that the gap between AAPA in view of Sternberg, Butler or Cook and the currently pending claims is “so great as to render [the claims] nonobvious to one reasonably skilled in the art.”³

Accordingly, for at least the above reasons, the Applicant respectfully submits that independent claim 24 is allowable over the cited references. Based at least upon their dependence on independent claim 24, claims 25-33 are also allowable.

Claim 34 and its Dependent Claims are Allowable

Without acquiescing to the rejection of claim 34, the Applicant has amended claim 34 to advance prosecution of this application. Specifically, claim 34 has been amended to recite, in part, “measuring via a user sensor at least one parameter of a user's body condition during said

³ *Id.*

session; and determining whether a value of said at least one measured parameter is within a predetermined range, and if within said predetermined range, allowing said predetermined program to continue, and if not within said predetermined range, modifying said predetermined program in real time, said modification based at least in part upon the user's categorization and said value of said at least one measured parameter.” None of AAPA, Sternberg, Butler or Cook, alone or combined, disclose or suggest such a method.

Specifically, for similar reasons as discussed above for claims 1, 10 and 24, none of the cited references disclose or suggest a method that includes modifying a predetermined program of cyclic variations in altitude conditioning based on a value of at least one measured parameter of a user's body condition, as recited in claim 34. Further, none of the cited references disclose or suggest “classifying a user into one of a predetermined number of body type categories” and “selecting a cyclic variations in altitude conditioning program based upon the user's categorization” as recited in claim 34. The Applicant respectfully asserts that the gap between AAPA in view of Sternberg, Butler or Cook and the currently pending claims is “so great as to render [the claims] nonobvious to one reasonably skilled in the art.”⁴

The Examiner asserts that “Cook discloses that programs are designed based on the user's data” and that it would have been obvious “to have supplemented the invention by using user data (profiles) to create specific treatments based on the user's data . . .” (see Office Action, page 9). The Applicant respectfully disagrees with this assertion.

The Examiner relies on Cook, col. 17, ll. 40-48 reproduced below.

Agent software 225, certain parts of student data object 226, and certain instructional materials software 224 have already been downloaded. The materials are displaying objects in screen area 220, forwarding events to the agent and receiving agent management or controls, as indicated by arrow 227. The agent is displaying its persona(e) in screen area 215, interacting with the materials, as represented by arrow 227, and is referencing and updating data in student data model 226, as represented by arrow 228.

⁴ *Id.*

The Applicant respectfully submits that this recitation from Cook does not disclose or suggest the recitations in claim 34 “classifying a user into one of a predetermined number of body type categories” and “selecting a cyclic variations in altitude conditioning program based upon the user's categorization.” There is no disclosure of classifying body types, and no disclosure of selecting a cyclic variations in altitude conditioning program based upon a user's body type. The assertion by the Examiner that these recitations in claim 34 would be obvious in view of the disclosure above in Cook is completely conclusory and without basis. The Applicant respectfully asserts that the gap between AAPA in view of Sternberg, Butler or Cook and the currently pending claims is “so great as to render [the claims] nonobvious to one reasonably skilled in the art.”⁵

Accordingly, for at least the above reasons, the Applicant respectfully submits that independent claim 34 is allowable over the cited references. Based at least upon their dependence on independent claim 34, claims 36-37 and new claim 44 are also allowable.

Claim 35 and its Dependent Claims are Allowable

Without acquiescing to the rejection of claim 35, the Applicant has amended claim 35 to advance prosecution of this application. Specifically, claim 35 has been amended to recite, in part, “measuring via a user sensor at least one parameter of a user's body condition during the first session” and “determining whether a value of said at least one measured parameter is within a predetermined range, and if within said predetermined range, allowing said first predetermined program to continue, and if not within said predetermined range, initiating in real time a second session of cyclic variations in altitude conditioning within said pressure vessel, said second session being different than said first session, said second session including a second predetermined program configured to cause rapid transitions between simulated altitudes in said pressure vessel according to cycles determined by said second predetermined program based upon the user's categorization and current body condition.” For similar reasons as discussed above for claim 34, none of AAPA, Sternberg, Butler or Cook, alone or combined, disclose or suggest such a method.

⁵ *Id.*

Specifically, for similar reasons as discussed above for claims 34, none of the cited references disclose or suggest a method that includes initiating in real-time a second session of cyclic variations in altitude conditioning within a pressure vessel based on a value of at least one measured parameter of a user's body condition, as recited in claim 35. Further, as discussed above for claim 34, none of the cited references disclose or suggest "classifying a user into one of a predetermined number of body type categories" and "selecting a cyclic variations in altitude conditioning program based upon the user's categorization" as recited in claim 35. The Applicant respectfully asserts that the gap between AAPA in view of Sternberg, Butler or Cook and the currently pending claims is "so great as to render [the claims] nonobvious to one reasonably skilled in the art."⁶

Accordingly, for at least the above reasons, the Applicant respectfully submits that independent claim 35 is allowable over the cited references. Based at least upon their dependence on independent claim 35, claims 38-39 and new claim 45 are also allowable.

⁶ *Id.*

Conclusion

All of the stated grounds of rejection in the Office Action have been properly traversed or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all outstanding rejections. Applicant believes that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that further personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

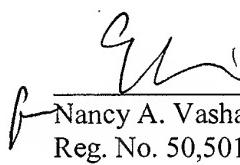
Prompt and favorable consideration of this Amendment is respectfully requested.

Dated: April 7, 2011

COOLEY LLP
ATTN: Patent Group
777 6th Street, NW, Suite 1100
Washington, DC 20001
Tel: (703) 456-8000
Fax: (202) 842-7899

Respectfully submitted,
COOLEY LLP

By:

 Nancy A. Vashaw REl. No. 42887
Reg. No. 50,501